

PT 02-54

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**MIRACLE TEMPLE
FAITH CHURCH &
CANDACE ROSE
COMMUNITY OUTREACH, INC.
APPLICANTS,**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0094
(99-16-1890)
P.I.N: 25-22-304-005
25-22-304-007**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Richard C. Baker of Mauk & Baker, on behalf of the Miracle Temple Faith Church & the Candace Rose Community Outreach, Inc. (hereinafter collectively referred to as the “applicants”); Mr. Michael Abramovic, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue.

SYNOPSIS: This proceeding raises the following issues: (1) whether real estate identified by Cook County Parcel Index Numbers 25-22-304-005 and 25-22-304-007 (hereinafter collectively referred to as the “subject property”) was “used exclusively for religious purposes,” as required by 35 ILCS 200/15-40, during the 1999 assessment year; and/or (2) whether one or both applicants qualify as “institutions of public charity” within the meaning of 35 ILCS 200/15-65(a); and/or (3) whether the subject property was “actually and exclusively used for charitable or beneficent purposes,” as required by 35

ILCS 200/15-65, during the 1999 assessment year. The underlying controversy arises as follows:

Applicants filed a *pro-se* Real Estate Tax Exemption Complaint with the Cook County Board of Review (the “Board”) on March 14, 2000. (Dept. Ex. No. 1A). The Board reviewed applicant’s complaint and recommended to the Illinois Department Of Revenue (the “Department”) that the requested exemption be denied due to lack of documentation. (Dept. Ex. No. 1B). The Department reviewed the Board’s recommendation and issued a determination, dated December 21, 2000, finding that the subject property is not in exempt ownership and not in exempt use.

Applicant filed a timely appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department’s initial determination in this matter be modified to reflect that the subject property be exempt from real estate taxation for the 41% of the 1999 assessment year that transpired on or after August 6, 1999.

FINDINGS OF FACT:

1. The Department’s jurisdiction over this matter and its position therein are established by the admission of Dept. Ex. Nos. 1A and 1B.
2. The Department’s position in this matter is that the subject property is not in exempt ownership and not in exempt use. Dept. Ex. No. 3.
3. The subject property is located in Chicago, IL and improved with a two story building. *Id.*
4. The Miracle Temple Faith Church (the “Church”) is an Illinois not-for-profit corporation that the Internal Revenue Service has recognized as exempt from federal

income taxation under Section 501(c)(3) of the Internal Revenue Code. Applicant Ex. Nos. 3, 5.

5. The Church's by-laws indicate, *inter alia*, that: (a) it is organized "exclusively for charitable religious services [sic], community education and Christian Missionary purposes; including such activities as related to spiritual counseling and/or making donations or distributions of money and goods to other organizations that also qualify as being tax-exempt under Section 501(c)(3) of the Internal Revenue Code...[;]" and, (b) it subscribes to the teachings set forth in the King James version of the Bible. Applicant Ex. No. 4.
6. The Church's main church facility was exempted from real estate taxation pursuant to the Departmental determination in Docket No. 98-16-836. Dept. Ex. No. 1B; Administrative Notice.
7. Candace Rose Community Outreach, Inc. ("CRCO") is an Illinois for-profit corporation, incorporated under the Business Corporation Act of Illinois on May 19, 1999. Applicant Ex. No. 9.
8. CRCO's organizational purposes are, per its Articles of Incorporation, to operate: (a) a homeless shelter for women and children; (b) a feeding program; and, (c) a community outreach program. *Id.*
9. CRCO's Articles of Incorporation indicate, *inter alia*, that it issued 100 shares of common stock that have a combined value of \$100.00. *Id.*
10. The Church's pastor, the Rev. Lamar Britt, is listed as CRCO's registered agent on CRCO's Articles of Incorporation; the board of directors that governs CRCO's daily

business affairs consists of the same people who sit on the Church's board of directors. *Id.*; Tr. p. 35.

11. CRCO did not hold title to, or any other interest in, the subject property during the 1999 assessment year. The Church, however, obtained an undivided 100% ownership interest in the subject property via a quitclaim deed dated August 6, 1999. Applicant Ex. Nos. 2A, 2B, 2C, 2D and 9.
12. The Church retained that ownership interest throughout the remainder of the 1999 assessment year. *Id.*
13. The Church acquired ownership of the subject property in order to expand the various community service and youth programs that it had been offering at its main church facility. Tr. pp. 18-22, 26-27, 32.
14. The community service programs provided food, clothing, counseling and temporary, rent-free shelter to homeless women, children and others who had no income or were otherwise in need. Tr. pp. 19-25, 29-30.
15. The youth programs provided free games and other recreational activities, as well as homework assistance and counseling, to area youth. Tr. pp. 26-29.
16. Applicant began providing expanded community service and youth programs at the subject property immediately upon acquiring ownership of it on August 6, 1999. Applicant Ex. No. C; Tr. p. 32.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for

agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code, 35 ILCS 200/1-1 *et seq.* The Code provisions that potentially govern disposition of this case are found in Sections 15-40 and 65(a) thereof, which provide, in pertinent part, for the exemption of:

200/15-40. Religious purposes, orphanages, or school and religious purposes.

§ 15-40. Religious purposes, orphanages, or school and religious purposes. All property used exclusively for religious purposes ... and not leased or otherwise used with a view to profit ...[.]

35 ILCS 200/15-40.

200/15-65. Charitable purposes

§ 15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity.

35 ILCS 200/15-65(a).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions or doubts resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here the potentially relevant statutory exemptions pertain to: (1) properties “used exclusively for religious purposes ...” (35 **ILCS** 200/15-40); and, (2) properties owned by "institutions of public charity" that are actually and exclusively used for charitable or beneficent purposes. (35 **ILCS** 200/15-65, 65(a)). The word “exclusively” when used in Sections 15-40 and 15-65 means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911). “Charitable or beneficent purposes” are those which, by definition, benefit an indefinite number of people and persuade them to an educational or religious conviction that benefits their general welfare or somehow reduces the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893).

Technical distinctions between the charitable exemption, which requires both exempt ownership and exempt use (Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968)), and the religious exemption, which, in the present context,¹ requires only exempt use (People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, *supra*), can become blurred if

1. The segment of Section 15-40 which governs the exemption of parsonages does require that the property be in exempt ownership. *See*, 35 **ILCS** 200/15-40. However, because the subject property was not used as a parsonage (i.e. housing provided by religious institutions for their employed clergy), that portion of Section 15-40 is inapplicable herein.

dispensing charity forms an integral part of a religious organization's mission. First Presbyterian Church of Dixon v. Zehnder, 306 Ill. App. 3d 1114, 1117 (2nd Dist. 1999).

Both the Real Estate Tax Complaint (Department Ex. No. 1A) and the Departmental Application Form (Department Ex. No. 2B) named a religious organization, the Church, and an Illinois for-profit corporation, CRCO, as co-applicants. Applicants' authorized representative, the Rev. Lamar Britt, completed both of these documents *pro-se* and submitted them without the assistance of counsel. As such, it appears that Rev. Britt failed to appreciate the legal significance of naming both entities as co-applicants.

Naming both entities, which are interrelated through their affiliations with Rev. Britt and the personnel who sit on their boards of directors,² might have proven problematic if CRCO had held any type of ownership interest in the subject property during the tax year in question.³ Because CRCO held no such interest throughout that tax year, Section 9-175 of the Property Tax Code, which imposes tax liability on the property owner,⁴ mandates that CRCO is not liable for any 1999 real estate taxes levied against the

2. For further analysis of interrelated entities and the exempt ownership requirement, *see*, People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and Southern Illinois University Foundation v. Booker, 98 Ill. App.3d 1062 (5th District, 1981).

3. If CRCO held a 100% undivided ownership interest in the subject property, then its legal status Illinois for-profit corporation that maintains indicia of a for-profit enterprise, (i.e. having shareholders and issuing capital stock) would have prevented CRCO from qualifying as an "institution of public charity," and therefore, would dictated that the subject property is not in exempt ownership as a matter of law. *See*, 35 ILCS 200/15-65(a); Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156-157 (1968). If, however, the ownership interests were divided in some manner between CRCO and the Church, then, at the very least, it would have been necessary to account for the appropriate percentage of non-exempt ownership. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263 (1996). (Awarding 50% exemption to an charitable institution which held an undivided 50% ownership interest in property used for charitable purposes).

4. Section 9-175 of the Property Tax Code states, in relevant part, that "[t]he owner of property ... shall be liable for the taxes of that year...[.]" 35 ILCS 200/9-175.

subject property. Therefore, only the Church, which held an undivided 100% ownership interest in the subject property as of August 6, 1999, is the real party in interest to this proceeding.

The Church need not qualify as an “institution of public charity” because its organizational documents (Applicant Ex. Nos. 3, 4) reveal that it is the type of “religious” organization whose property qualifies for exemption under Section 15-40 of the Property Tax Code if used for appropriate purposes. Consequently, Section 15-65(a) of the Property Tax Code is inapplicable herein except to the very limited extent that the Church’s Articles of Incorporation and by-laws disclose that dispensation of charity is an integral part of its organizational mission. First Presbyterian Church of Dixon v. Zehnder, *supra*. Therefore, the dispositive inquiry herein is whether the Church used the subject property “exclusively for religious purposes” during the 41% of the 1999 assessment year that transpired between the date applicant obtained ownership of the subject property, August 6, 1999, and the last day of the 1999 assessment year, December 31, 1999. *See*, 35 ILCS 200/9-175; 35 ILCS 200/ 9-185;⁵ and 35 ILCS 200/1-155.⁶

The Church used the subject property as a satellite facility for expanding its community service and youth programs throughout this period. Such satellite facilities can qualify for exemption if applicant’s use thereof is “reasonably necessary” to facilitate

5. Section 9-185 of the Property Tax Code governs alterations in exempt status precipitated by changes in ownership and states, in relevant part, that:

... when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from the date of the right of possession, except that property acquired by condemnation is exempt as of the date the condemnation petition is filed.

35 ILCS 200/9-185.

another specifically identifiable exempt use. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991).

The Church's use of the subject property satisfies this criterion in that it enabled the Church to expand the community service and youth programs that it had been providing at its main church facility, which was exempted from real estate taxation pursuant to the Department's determination in Docket No. 98-16-836. Therefore, the Department's initial determination in this matter, denying the subject property exemption from real estate for the entire 1999 assessment year, should be modified to reflect that the subject property be exempt from real estate taxation for the 41% of the 1999 assessment year that transpired on or after the date on which applicant obtained ownership of the subject property, August 6, 1999.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Cook County Parcel Index Numbers 25-22-304-005 and 25-22-304-007 be exempt from real estate taxation for 41% of the 1999 assessment year under Sections 9-185 and 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

August 26, 2002

Date

Alan I. Marcus
Administrative Law Judge

6. Section 1-155 of the Property Tax Code defines the term "year," for Property Tax purposes as meaning a calendar year. 35 **ILCS** 200/1-155.